

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #1	CCRB Case #: 201608222	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/17/2016 8:34 PM	Location of Incident: Over the phone.	Precinct: 70	18 Mo. SOL 3/17/2018	EO SOL 3/17/2018	
Date/Time CV Reported	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/26/2016 11:09 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Kim Wallace	13769	936616	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Kim Wallace	Discourtesy: Police Officer Kim Wallace spoke discourteously to § 87(2)(b)	
B.POF Kim Wallace	Abuse: Police Officer Kim Wallace refused to provide her name and shield number to § 87(2)(b)	
C.POF Kim Wallace	Abuse: Police Officer Kim Wallace threatened to arrest § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint via phone with 311 on September 20, 2016. The complaint was forwarded to the CCRB by the Internal Affairs Bureau on September 26, 2016. The case was originally assigned to Inv. Andrew Bailyn. It was reassigned to Inv. Jeffrey Mulinelli on February 15, 2017, following Inv. Bailyn's departure from the Agency.

On the night of September 17, 2016, § 87(2)(b) recognized two teenagers from the neighborhood preparing to smoke marihuana on the stoop of his building, § 87(2)(b). § 87(2)(b) approached two officers standing around the next corner and apprised them of the situation. The officers then approached the teenagers. According to § 87(2)(b) the officers later informed him that they had ordered the teenagers to throw the marihuana to the ground and leave the location. § 87(2)(b) was displeased with this outcome.

Following the above-described portion of the incident, § 87(2)(b) phoned the 70th Precinct stationhouse at about 8:34 p.m. § 87(2)(b) was twice transferred to a non-working extension before calling a third time. During the third call, § 87(2)(b) reached a female officer, who he believed to have a Caribbean accent. This officer was identified by the investigation as PO Kim Wallace of the 70th Precinct. When § 87(2)(b) explained the situation to PO Wallace, she reportedly called him a liar (**Allegation A**). The officer then terminated the call.

Undeterred, § 87(2)(b) placed several additional calls to the stationhouse, eventually reaching PO Wallace. During this call, § 87(2)(b) requested her name and shield number. PO Wallace responded that she would not provide § 87(2)(b) with this information, and she requested his home address because she was planning to send a "bus" or ambulance to his apartment in order to arrest him and take him to a hospital (**Allegations B and C**). § 87(2)(b) terminated the call immediately following this comment.

Mediation, Civil and Criminal Histories

- § 87(2)(b) opted to mediate this complaint because he would like to speak with the officer about her handling of his complaint. Because PO Wallace denied involvement in the incident, the case was not submitted to the ADR Unit.
- As of March 13, 2017, no Notice of Claim Inquiry has been filed with the Office of the New York City Comptroller regarding this incident [01 Board Review].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint featuring § 87(2)(b) [03 Board Review].
- This is the seventh CCRB complaint filed against PO Wallace in her 12 year career. No allegations have been substantiated against her. It was alleged that she threatened to arrest an individual in case 201201880. That complaint was withdrawn.

Explanation of Subject Officer Identification

As detailed above, § 87(2)(b) testified that the alleged misconduct took place during a phone conversation. He did not have any in-person interaction with the subject officer during the incident. § 87(2)(b) reported that he called the 70th Precinct stationhouse at 718-851-5511 and

reached a female officer who he believed spoke with a Caribbean accent, possibly Haitian or Trinidadian in origin [04 Board Review].

On October 25, 2016, at 4:32 p.m., Inv. Bailyn called the number above and reached PAA Clerk. Although on a different day, this call occurred during the same tour as § 87(2)(b)'s call. PAA Clerk did not speak with an accent of any kind and was therefore eliminated from consideration as a potential subject officer [05 Board Review, see IAs].

The roll call for tour 3 of the 70th Precinct on September 17, 2016, indicated that the following female officers were scheduled to work at the time of the incident: PO Elizabeth Connors, PO Krista Cascalena, PO Jacqueline Barranco, PO Erin Frawley, PO Diana Kravets, PO Fayette McDonald, and PO Kimberly Joseph [06 Board Review].

Audio files from previous interviews of PO Cascalena and PO McDonald were reviewed, and it was determined that neither officer spoke with a Caribbean accent. They were therefore eliminated as potential subjects. PO Barranco was scheduled for a CCRB interview but called on December 5, 2016, to inquire about the nature of the case. During that call, it was determined that PO Barranco did not possess a Caribbean accent, and she was eliminated as a possible subject officer [see IAs].

Neither PO Frawley nor PO Kravets has any prior CCRB history. As such, there were no audio files to review to determine whether either possesses a Caribbean accent. Regardless, the roll call indicated that PO Frawley and PO Kravets were scheduled to patrol Sector A1 of the 70th Precinct at the time of the incident [06 Board Review]. Neither of these officers had an arrest entry in the Command Log [07 Board Review]. As such, it is unlikely that either was at the stationhouse answering the phone. They were therefore eliminated as potential subjects.

According to the roll call, PO Connors was assigned to a stationhouse clerk position at the time of the incident [06 Board Review]. PO Connor's only CCRB interview took place in 2006. Due to the age of the case, there were no digital audio files attached to the case, and there was no mention of an accent in PO Connor's interview report. Further, PO Connors has since retired from the service according to a CTS search. On April 12, 2017, a call to SPAA Brabham at the Wheel confirmed that PO Connors retired on December 27, 2016 [08 Board Review, see IAs].

PO Joseph was scheduled to work as the T/S Operator at the time of the incident. She was interviewed at the CCRB on March 1, 2017. While she confirmed that she was working said assignment and reported that she would have been the only officer answering the phone, she did not speak with a Caribbean accent. PO Joseph was thereby eliminated as a potential subject officer [09 Board Review].

On March 8, 2017, upon reviewing the roll call, the undersigned investigator found that one of the tax numbers on the document incorrect. PO Wallace's tax number is listed on the roll call as 936016. Inv. Bailyn had previously found that the officer with that tax ID has left service. However, PO Wallace is still a member of the service, and her correct tax number is 936616 [06 Board Review]. The undersigned investigator then reviewed audio from her past CCRB cases and found that she has a very slight accent, likely Caribbean.

According to the roll call, PO Wallace was assigned to be operator for the Patrol Sergeant, Sgt. Gordon Fraser. The Command Log indicated that Sgt. Fraser was at the stationhouse verifying an arrest at 7:40 p.m. and, in her CCRB testimony, PO Wallace testified that she accompanied Sgt. Fraser to the stationhouse at that time [07, 09 Board Review]. Based on the above, the investigation determined that PO Wallace was the only MOS who was working tour 1 and had an accent. Further, the Command Log's documentation of Sgt. Fraser's presence at the stationhouse and PO Wallace's testimony in regard raised the likelihood that PO Wallace was at the stationhouse at the time of § 87(2)(b)'s call. The Interrupted Patrol Log featured no officers on a meal hour at the time of § 87(2)(b)'s calls [12 Board Review]. § 87(2)(g)

Allegation A – Discourtesy: Police Officer Kim Wallace spoke discourteously to § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Kim Wallace refused to provide her name and shield number to § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Kim Wallace threatened to arrest § 87(2)(b)

§ 87(2)(b) upset with the outcome of the previously described incident, phoned the 70th Precinct stationhouse at 718-851-5511. § 87(2)(b) reached a female officer of an unknown rank. § 87(2)(b) perceived this officer to have a Caribbean accent, guessing that she sounded Trinidadian or Haitian. § 87(2)(b) explained his complaint to this officer and explained that the previously mentioned officers had simply ordered the teenagers to throw the marihuana to the ground. The officer told § 87(2)(b) “No officer would ever say that.” When § 87(2)(b) asked the officer if she was calling him a liar, she affirmed. § 87(2)(b) laughed at first but then became upset and raised his voice as he spoke to the officer. However, § 87(2)(b) did not yell, and he did not believe that he used any foul language. The officer repeatedly called § 87(2)(b) a liar and then terminated the call.

Fuming, § 87(2)(b) placed several additional calls to the same number, with each being immediately terminated. Finally, § 87(2)(b) reached the same female officer. The officer immediately spoke of § 87(2)(b)'s complaint without prompting. § 87(2)(b) requested the officer's name and shield number, which she responded that she would not provide. She also demanded to know § 87(2)(b)'s home address because she planned to send a “bus” to his home. § 87(2)(b) was unsure of the meaning of this comment but assumed that the officer intended to send a police van. The officer also stated that she was going to send an ambulance to § 87(2)(b)'s residence for the purpose of arresting him and transporting him to a hospital. § 87(2)(b) immediately terminated the call and phoned 311 to file a complaint against the female officer [04 Board Review].

§ 87(2)(b) submitted photos of his call log, which showed that he called 718-851-5511 three times between 8:34 p.m. and 8:45 p.m., once at 9:00 p.m., and four times between 9:05 p.m. and 9:14 p.m. [10 Board Review].

The transcript of § 87(2)(b)'s complaint to 311 was brief but generally consistent with his CCRB testimony [13 Board Review].

During her CCRB interview, it was evident that PO Wallace spoke with a slight accent. When asked, PO Wallace revealed that she is from Guyana. PO Wallace reviewed the roll call for tour 3 on September 17, 2016, and did not find any other officers listed who she believed to speak with an accent.

PO Wallace testified that she had no independent memory of this incident. She was provided with a summary of its details, which did not refresh her memory. PO Wallace stated that a call such as § 87(2)(b) s would be answered by the T/S Operator. She also confirmed that extension 5511 is for the T/S Operator. PO Wallace denied receiving or become aware of any phone calls concerning a report of a crime directly to the stationhouse. She did not receive or become aware of any calls in which a civilian complained of officer conduct. She denied accusing any caller of being a liar or speaking with anyone who requested her name or shield number. PO Wallace did not refuse to provide her identifying information to anyone, nor did she tell any caller that she was going to send a “bus” or ambulance to their apartment. She did not tell any caller that any unit would be sent to arrest him.

After reviewing the roll call and Command Log, she confirmed that she was Sgt. Fraser’s operator and that Sgt. Fraser made the Command Log entry at 7:40 p.m. She was present inside the stationhouse when Sgt. Fraser made this entry, though she did not remember where she went or how long she remained within the stationhouse. PO Wallace added that she was also present at the stationhouse for her meal. However, she denied answering the stationhouse phones at any point [06-07, 11 Board Review].

As noted in the officer identification section, PO Joseph was listed as the T/S Operator on the roll call. She testified that this was her only assignment that day and asserted that she would have been the only officer answering the phone. PO Joseph denied receiving any calls of the nature described by § 87(2)(b). She also denied referring to any caller as a liar, refusing to provide her name or shield number, or threatening to send a “bus” to anyone’s home or arrest them. PO Joseph asserted that she remained the T/S Operator throughout her tour, did not take a meal hour, and was not relieved from her post by any officer [09 Board Review].

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Squad: 1

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date